

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

DANNY LEE MALONE,

Plaintiff,

v.

CIVIL ACTION NO. 5:19-cv-00050

OFFICER JAMES MCCOY,

Defendant.

ORDER

Pending is Defendant's Motion for Summary Judgment [Doc. 19], filed August 7, 2019. This action was previously referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on November 14, 2019. Magistrate Judge Aboulhosn recommended that the Court dismiss the Amended Complaint [Doc. 5] without prejudice and deny as moot Defendant's motion for summary judgment [Doc. 19].

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (emphasis added) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made*."). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically "appeal a

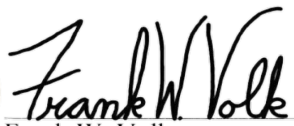
magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on December 2, 2019. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 24**], **DISMISSES** the Amended Complaint [**Doc. 5**] without prejudice, **DENIES** the motion for summary judgment [**Doc. 19**] as moot, and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party herein.

ENTERED: December 10, 2019




Frank W. Volk
United States District Judge